

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN BERMAN,

No. C-09-4065 MMC

Plaintiff,

v.

**ORDER SETTING DEADLINE TO SERVE
DEFENDANT WINK COMMUNICATIONS,
INC.**

OPENTV CORP., et al.,

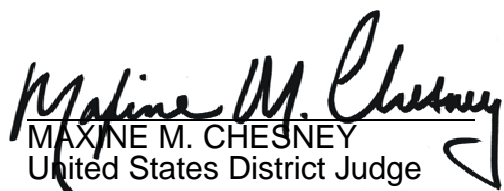
Defendants

A review of the docket indicates that plaintiff has failed to file proof of service of a summons and the operative complaint on defendant Wink Communications, Inc. ("Wink Communications"). "If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or its own initiative, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified period" Fed. R. Civ. P. 4(m). Here, more than 120 days have passed since the instant action was removed to district court.

Accordingly, pursuant to Rule 4(m), the Court hereby DIRECTS plaintiff to serve Wink Communications no later than January 22, 2010, and to file, no later than January 28, 2010, proof of such service. If plaintiffs fail to timely file such proof of service, the Court will dismiss the instant action as against Wink Communications, without prejudice, pursuant to Rule 4(m).

IT IS SO ORDERED.

Dated: January 4, 2010


MAXINE M. CHESNEY
United States District Judge